

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

- - - - - x

UNITED STATES OF AMERICA :

- v -

: **D E C L A R A T I O N**

**WILLIAM DAVIS,** : **07 CR 468 (KMK)**

Defendant. :

- - - - - x

I, **STEVEN M. STATSINGER**, hereby declare under the penalties of perjury, pursuant to 28 U.S.C. § 1746, that:

1. I am an Assistant Federal Defender with Federal Defenders of New York, Inc., and have been appointed by this Court to represent the defendant, William Davis, in this action. I make this declaration in support of a motion pursuant to Rules 12 and 41 of the Federal Rules of Criminal Procedure to suppress physical evidence obtained in violation of the Fourth Amendment to the United States Constitution or, in the alternative, for an evidentiary hearing.

2. The statements contained in this Declaration are based on information and belief, Mr. Davis' own Declaration, and my discussions of this case with the government.

**Background**

3. On June 6, 2006, Mr. Davis was presented in this Court on an Indictment charging him with possessing child pornography, in violation of 18 U.S.C. § 2252A(a)(5)(B) and (b)(2) (Count One),

and possessing ammunition as a previously convicted felon, in violation of 18 U.S.C. § 922(g)(1) (Count Two). A copy of the Indictment is on file with the Court. On that same date, Mr. Davis entered a plea of not guilty to the Indictment.

**The Illegal Search**

4. The government has advised me that the child pornography and ammunition that are the subject of the Indictment were found in or about January of 2007 by police officers, who opened a safe that belonged to Mr. Davis.

5. The police officers did not obtain a search warrant before they opened the safe, and did not have Mr. Davis' permission to open it.

6. On information and belief, there were no exigent circumstances that would justify opening the safe.

7. The government has advised me that the government believes that Mr. Davis abandoned the safe before the officers opened it.

8. However, in a Declaration accompanying this Motion, Mr. Davis denies ever abandoning the safe.

**The Evidence Obtained from the Safe Must Be Suppressed**

9. The above facts make out a violation of the Fourth Amendment. Absent consent, abandonment or exigent circumstances, the officers were required to obtain a warrant before they searched Mr. Davis' safe.

10. Since no exception to the warrant requirement was present here, the warrantless search of Mr. Davis' safe violated the Fourth Amendment, and the evidence thereby obtained must be suppressed.

**WHEREFORE**, it is respectfully requested that this Court enter an order suppressing the evidence obtained from Mr. Davis' safe, or, in the alternative, granting an evidentiary hearing on this motion.

Dated: New York, New York  
June 13, 2007

---

**STEVEN M. STATSINGER, ESQ**